IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2979 of 1993

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JYOTSNABEN R.ARYABANDHU

Versus

MEHSANA MUNICIPALITY & OTHERS

Appearance:

1. Special Civil Application No. 2979 of 1993

MR YN OZA for the Petitioner

MRS SANGEETA PAHWA for MR PM THAKKAR for Respondents Nos. 1-2

MS MITA PANCHAL, AGP for Respondent No. 3

Respondent No. 4 SERVED

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 03/12/2004

ORAL JUDGEMENT

The petitioner is the employee of the respondent No.1 Mehsana Municipality (hereinafter referred to as "the Municipality"). It appears that by Notification dated 20th June, 1990 issued under the Consumer Protection Act, the petitioner was appointed to be a Member of the Consumer Disputes Redressal Forum, District Mehsana. By Resolution dated 17th November, 1990 passed by the Municipality the petitioner was permitted to act as the Member of the Consumer Forum and to attend its proceedings. As her duties as the Member of the Consumer Forum came into conflict with the discharge of her duty as the municipality employee, the said permission was withdrawn by the Municipality by its Resolution dated 25th February, 1993. By Resolution dated 17th January, 1990 the petitioner was given additional charge of the post of Secretary. The said additional charge was taken away by Resolution No.401 dated 25th February, 1993 of the Municipality. Feeling aggrieved by the aforesaid two orders, the petitioner has preferred the present petition.

Pending this petition by ad-interim order dated 27th July, 1993 (Coram: M.S.Parikh, J.) the petitioner was permitted to function as Member, Consumer Forum. By a subsequent order dated 27th July, 1994 (Coram: H.L.Gokhale, J.) the said ad-interim relief was confirmed. Thus, pending this petition the petitioner continued to be the Member, Consumer Forum in terms of the Notification dated 20th June, 1990.

As to the additional charge it should be noted that no employee has a right to hold additional charge of any other post. Besides, as recorded in the aforesaid order dated 27th July, 1994, the additional charge of the post of Secretary given to the petitioner was taken over as far back as on 5th December, 1992. The Court held that, "...That being the position, the said charge cannot be handed over to her when she is facing a departmental inquiry for her functioning in that post." I am also informed that pending this petition the petitioner has been compulsorily retired from service.

In above view of the matter, the cause of action shall not survive. The petition is accordingly disposed off. Rule is discharged. There shall be no order as to cost.

(Ms. R.M.Doshit, J.)

/sakkaf